

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

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**Clerk's Minutes  
Before the Honorable Judith C. Herrera**

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Case No. **CR 05-1849 JH** Date: **October 27, 2005**  
Title: **United States v. Dana Jarvis, et al.**  
Courtroom Clerk: **Valerie Vigil** Court Reporter: **Paul Baca**  
Court in Session: **10:26 a.m.** Court in Recess: **11:46 a.m.**  
Type of Proceeding: **Hearing on (1) motion to designate complex case; (2) motion for Rule 44(c) hearing; (3) motion for protective order**

Attorney(s) Present for Plaintiff(s):

**James Braun  
Steve Kotz**

Attorney(s) Present for Defendant(s):

**Ann Steinmetz  
Armand Salese (by phone)  
Brian Pori  
Carolyn Nichols  
Cliff McIntyre  
Penni Adrian  
Edward Bustamante  
Jason Bowles  
Jason Lamm (by phone)  
Jerry Herrera  
John Robbenhaar  
Judith Rosenstein  
Kirtan Khalsa  
Val Whitley  
Martin Lopez III  
Stephen Aarons  
Bob Gorrance  
Tova Indritz**

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10:26 a.m. **Court in session.** Counsel state appearances.

10:31 a.m. Government's motion to designate this as a complex case will be granted.

10:32 a.m. Ms. Steinmetz requests change in government's proposed order. Government will provide

a new proposed order.

- 10:34 a.m. Discussion of lead counsel and setting pretrial deadlines. Counsel should work together to come up with proposed budget and proposed scheduling order. Penni Adrian is willing to be the contact person for the scheduling order. She will also provide the budget by November 8. Motion to extend scheduling deadlines and motions re: vouchers are moot.
- 10:39 a.m. Tova Indritz raises question regarding role of local counsel. Court releases counsel not involved in the other motions.
- 10:43 a.m. **RECESS**
- 10:51 a.m. **Court in session.** Mr. Braun addresses his motion under Rule 44(c) and the potential for conflict that arises from Mr. McIntyre's dual representation.
- 10:54 a.m. Mr. Jarvis' wrist restraint is removed. Mr. McIntyre addresses the motion.
- 11:00 a.m. Mr. Braun responds to Mr. McIntyre's arguments.
- 11:03 a.m. Court addresses and questions Defendants Cathy Fitzgerald and Dana Jarvis. Ms. Rosenstein addresses the Court. Mr. Braun responds, and Mr. McIntyre rebuts.
- 11:15 a.m. Court continues questioning defendants.
- 11:22 a.m. Question by Mr. Jarvis.
- 11:25 a.m. Additional statement by Mr. McIntyre regarding one post-conviction lawsuit.
- 11:29 a.m. Statements by Mr. Braun and Ms. Rosenstein.
- 11:32 a.m. Court finds that Defendants has waived the conflicts, but there is good cause to believe that conflict is likely to arise and Mr. McIntyre should not represent Mr. Jarvis on the forfeiture.
- 11:34 a.m. Mr. McIntyre asks to continue the next hearing; Mr. Kotz wishes to go forward because motion seeks only to preserve the status quo, not a resolution on the merits. Ms. Rosenstein is not prepared to argue this issue.
- 11:42 a.m. Court: not fair to Mr. Jarvis to go forward with the motion for protective order today; will take up the matter Thursday morning (Nov. 3) in Santa Fe at 8:30 a.m.
- 11:46 a.m. **RECESS.**